IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) JAMES PAVATT, Plaintiff,	)	
and	)	
JEFFREY D. MATTHEWS, Intervenor Plaintiff,	)	
v.	)	**Case No. CIV-10-141-F**
(1) JUSTIN JONES, in his capacity as Director of the Oklahoma Department of Corrections; (2) RANDALL WORKMAN, in his capacity as Warden of the Oklahoma State Penitentiary;	)	
Defendants.	)	

ANSWER OF DEFENDANTS JONES AND WORKMAN TO INTERVENOR'S COMPLAINT [Doc. 54]

Defendants Justin Jones and Randall Workman provide the following Answer to Intervenors's Complaint [Doc. 54]. Anything not specifically admitted below is denied. Intervenor Matthew's Complaint is nearly identical to the Complaint filed by Mr. Pavatt. Defendants Jones and Workman adopt the Answer they filed to Mr. Pavatt's Complaint with the following exceptions:

5. Defendants additionally deny that Mr. Matthew's has a scheduled execution date.

17. Paragraph 17 is denied except that Defendants admit that Defendants' Counsel did inform the Federal Public Defender's Office there was a shortage of sodium thiopental that, at the time, was forcing ODOC to select an alternative and, at the time, ODOC had selected Brevital.

33. Defendants additionally deny the last sentence of paragraph 33.

45. Defendants additionally deny paragraph 45.

56. Defendants additionally deny paragraph 56.

57. Defendants additionally deny the last sentence of paragraph 57.

64. Defendants additionally deny paragraph 64.

AFFIRMATIVE DEFENSES

1. Oklahoma's policy is "substantially similar" to the policy reviewed by the Supreme Court in *Baze v. Rees*, 553 U.S. 35 (2008). Oklahoma's policy is, therefore, constitutional as a matter of law.

2. Defendants are entitled to judgment on all of Plaintiff's claims.

3. Plaintiff delayed too long in brining his claims. Plaintiff's delay is dispositive under the Tenth Circuit's rulings in *Hamilton v. Jones*, 472 F.3d 814 (10th Cir. 2007), and *Patton v. Jones*, No. 06-6258, 193 Fed.Appx. 785, 2006 WL 2468312 (10th Cir. Aug. 25, 2005), and the Supreme Court's rulings in *Hill v. McDonough*, 547 U.S. 573 (2006), and *Nelson v. Campbell*, 541 U.S. 637 (2004).

4. Plaintiff failed to exhaust his administrative remedies.

5. Defendants reserve the right to amend their Answer and add additional affirmative defenses during the course of this litigation.

Respectfully submitted,

s/Stephen J. Krise

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CERTIFICATE OF SERVICE

I certify that on September 15, 2010, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrant:

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